Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 15-209
March 2015

Supersedes IGR 11-208 and Inconsistent Prior Written Statements

CLAUSE 41C½ PROPERTY TAX EXEMPTION FOR SENIORS

Chapter 62, §§ 10, 14 and 16 of the Acts of 2014
(Amending G.L. c. 59, §§ 5 and 59 and adding G.L. c. 59, § 5C½)

This Informational Guideline Release (IGR) informs local officials about changes made by recent legislation that impact the operation of the local option Clause 41C½ property tax exemption for seniors effective for FY2016. It also explains the standards and procedures that apply to this local option exemption generally.

Topical Index Key:

Exemptions

Distribution:

Assessors
Selectmen/Mayors
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels

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(Amending G.L. c. 59, §§ 5 and 59 and adding G.L. c. 59, § 5C½)

SUMMARY:

These guidelines explain recent amendments made by the 2014 Veterans' Allowances, Labor, Outreach and Recognition Act (VALOR II) that impact the operation of local option Clause 41C½. Chapter 62, §§ 10, 14 and 16 of the Acts of 2014. If accepted by a city or town, Clause 41C½ replaces the property tax exemption for the domiciles of seniors 70 or older used by the community under G.L. c. 59, § 5, Clause 41, 41B or 41C.

Unlike other local option property tax exemptions, Clause 41C½ is accepted by referendum at a regularly scheduled municipal election and is five percent of the average assessed value of residential parcels in the city or town, rather than a fixed dollar amount. As with the Clause 41B and 41C exemptions, taxpayers must be domiciled in Massachusetts for 10 consecutive years and have owned a domicile here for any five years. However, there is no asset (whole estate) limit and the income (gross receipts) limit is tied to the income limit single persons who are not heads of households must meet in order to be eligible for the "circuit breaker" state income tax credit limit under G.L. c. 62, § 6(k).

Under the recent amendments, the Clause 41C½ exemption now has the same annual application deadline as other personal exemptions under G.L. c. 59, § 59. That deadline is December 15, or three months after the actual tax bills are sent, whichever is later. Previously, the Clause 41C½ application deadline was the day the first actual tax installment was due (the abatement deadline).

In addition, as with other taxpayers granted personal exemptions under G.L. c. 59, § 5, taxpayers granted Clause 41C½ exemptions may not receive any other personal exemption, except a Clause 18 hardship or Clause 45 solar or wind system exemption. If the city or town has accepted the optional additional exemption, now codified as G.L. c. 59, § 5C½, Clause 41C½ recipients may now also receive that exemption.

All amendments are effective for fiscal years beginning on or after July 1, 2015 in **Clause 41C ½ communities without any local action.**

These guidelines supersede the guidelines issued when G.L. c. 59, § 5(41C½) was last amended in 2010 and any inconsistent prior written statements or documents. See Informational Guideline Release (IGR) No. 11-208, *Clause 41C½ Property Tax Exemption for Seniors*.

BUREAU OF MUNICIPAL FINANCE LAW **KATHLEEN COLLEARY, CHIEF**

GUIDELINES:

A. LOCAL ACCEPTANCE

1. Acceptance Procedure

Acceptance of Clause 41C½ requires approval of the electorate at a regularly scheduled municipal election. The referendum may be placed on the ballot by vote of the selectmen, town council or city council subject to local charter.

The city or town clerk must receive written notice of the vote at least 35 days before the scheduled election. G.L. c. 54, §§ 42C and 58A.

2. Question Form

The referendum question presented to the voters must read as follows:

> Shall Section 41 of Chapter 139 of the Acts of 2006 granting real estate property tax exemptions to qualifying seniors be accepted?

3. Question Summary

A fair and concise summary of the Clause 41C½ exemption and its purpose must appear underneath the question. G.L. c. 54, § 58A. The summary is to be prepared by the community's city solicitor or town counsel and should include the fiscal year the exemption will take effect if accepted. See Section A-5 below.

4. Question Approval

The question is approved and the statute accepted if a majority of the voters voting on the referendum question vote "yes."

5. Effective Date

The exemption will apply in the fiscal year that begins the July 1 after the election, unless another fiscal year is specified in the vote by the selectmen, town council or city council and the election is held before the tax rate for that fiscal year is set.

6. Revocation of Acceptance

Acceptance may be revoked, but the city or town must wait until at least three years after the referendum passes to do so. Revocation is also by referendum at a regularly scheduled municipal election. G.L. c. 4, § 4B.

To revoke acceptance, the selectmen, town council or city council subject to local charter may vote to present the following referendum question to the voters:

Shall acceptance by _________ (city/town) of Clause 41C½ of Section 5 of Chapter 59 of the General Laws be revoked?

The question is approved and the statute revoked if a majority of the voters voting on the referendum question vote "yes."

The revocation will apply in the fiscal year that begins the July 1 after the election, unless another fiscal year is specified in the vote by the selectmen, town council or city council and the election is held before the tax rate for that fiscal year is set.

7 Notification of Acceptance or Revocation

The city or town clerk must notify the Municipal Databank if the statute is accepted or revoked. (See "Notification of Acceptance or Revocation.") The notification should be made **as soon as possible** after the referendum election.

B. APPLICATION PROCEDURE

1. Application Deadline

A taxpayer must file an application on an approved form with the board of assessors for each fiscal year for which a Clause 41C½ exemption is sought (State Tax Form 96, State Tax Form 96-1 or State Tax Form 96-6). **Each year's application is due on or before December 15, or three months after the actual tax bill is sent, whichever is later**. G.L. c. 59, § 59. Assessors may not waive the filing deadline or act on a late-filed application.

2. Appeals

An applicant aggrieved by the assessors' action on an application for an exemption may appeal to the state Appellate Tax Board, or the county commissioners if they live in a county where county government has not been abolished. The appeal must be filed within three months of the date the exemption was denied, or deemed denied if the assessors did not act. G.L. c. 59, §§ 64 and 65.

C. EXEMPTION QUALIFICATIONS

1. Eligibility Date

As with other personal exemptions, Clause 41C½ exemption status is determined as of July 1. G.L. c. 59, § 5. Any eligibility requirements for the exemption must be met as of that date.

2. Age

The applicant must be at least 70 years old on July 1.

3. Ownership

An applicant must be a natural person who owns the property on July 1 and has owned that property or another property in Massachusetts as a domicile for five years. The five years do not have to be consecutive. Ownership of any domicile in Massachusetts for a total of any five years is sufficient.

The applicant may be the sole owner or may own the property jointly with a spouse or other natural persons. The property may not be owned in whole or in part by a business, governmental or non-profit entity. If the applicant has co-owners, only the applicant must meet the five-year durational ownership requirement.

As with other personal exemptions, an applicant who holds a life estate in the property is considered its owner. If the property is held in trust, the applicant must be a trustee who also has a sufficient beneficial interest in the property.

4. Domicile

The applicant must occupy the property as his or her domicile on July 1 and must have been domiciled in Massachusetts for the preceding 10 years. The 10 years must be consecutive, but the taxpayer need not have lived all of those years in the same location in Massachusetts.

If the applicant has co-owners, only the applicant must meet the current and ten year durational domiciliary requirements.

5. Gross Receipts

a. Gross Receipts Definition

Gross receipts means income from all sources and is broader than taxable income for federal or state income tax purposes. It includes wages, salaries, bonuses, commissions, public and private pensions, social security, alimony, child support, lottery winnings, interest and dividend income, capital gains, life insurance proceeds, net income from business or rental property after deduction of related business expenses and losses, public assistance, disability payments, unemployment compensation, workman’s compensation, regular cash or financial contributions or gifts from family or others outside the household, and any other income.

b. **Applicable Income Limit**

The gross receipts of the applicant for the prior calendar year cannot exceed the income limit established for a single person who is not the head of a household to qualify for the "circuit breaker" state income tax credit for that year. The limit is adjusted annually by the Commissioner of Revenue for increases in the cost of living and is announced in a Technical Information Release (TIR) issued before the state tax filing season begins.

EXAMPLE

A single person who is not the head of a household must have income of $56,000 or less during state tax year 2014 to qualify for the "circuit breaker" income tax credit for that year. Therefore, the gross receipts of the applicant cannot be over $56,000 during 2014 in order to qualify for a Clause 41C½ exemption in fiscal year 2016, which begins on July 1, 2015.

c. **Deductions**

There are **no** allowable deductions when computing an applicant's gross receipts. As with other senior exemptions, personal or family expenses may not be deducted. In addition, the social security deduction from gross receipts that applies to other senior exemptions does **not** apply to Clause 41C½.

d. **Co-owners or Others**

The gross receipts of co-owners, spouses or other household members are **not** included or considered in determining whether the applicant qualifies for the exemption, unless the city or town adopts an allowable adjustment in the gross receipts limits. See Section F-1-d below.

D. EXEMPTION AMOUNT

The exemption amount is five percent of the average assessed value of residential parcels in the city or town. Average assessed value is determined by dividing the total valuation of all Class 1, Residential property by the total number of Class 1 parcels.

EXAMPLE

The total assessed valuation of Class 1, Residential property for the year is $1,000,000,000. The total number of Class 1, Residential parcels is 1,000. The average assessed valuation of residential property for the year is $1,000,000. The valuation exemption amount is $50,000. If the community has a tax rate of $10, the exemption for the year is $500.

E. OPTIONAL ADDITIONAL EXEMPTIONS

Recipients of a Clause 41C½ exemption may receive any optional additional exemption the city or town votes for personal exemptions under G.L. 59, § 5C½. See IGR No. 15-210, *Optional Additional Real Estate Exemption*.

F. ADJUSTMENTS IN EXEMPTION AMOUNT OR ELIGIBILITY FACTORS

1. Allowable Adjustments

The city or town may make any or all of the adjustments explained in this section.

a. Minimum Age

The eligibility age may be reduced from 70 to 65. If this adjustment is voted, any applicant who has reached the age of 65 as of the applicable July 1 qualification date would be eligible for a Clause 41C½ exemption.

b. Exemption Amount

The amount of the exemption granted to eligible applicants may be increased to up to 20 percent of the average assessed valuation of residential properties.

c. Durational Residency

The number of consecutive years the applicant must have been domiciled in Massachusetts may be reduced from 10 to five years.

d. Gross Receipts Income Limit

The gross receipts limit may be adjusted to apply to the combined income of the applicant and members of the applicant's household rather than just the applicant's income. If this adjustment is voted, the combined gross receipts of the applicant and all other household members, whether or not the members are co-owners of the domicile, for the prior calendar year cannot exceed the following income limits established to qualify for the "circuit breaker" state income tax credit for that year:

(1) The limit for a single person not the head of a household if the household contains the applicant.
(2) The limit for a married couple if the household contains the applicant and applicant's spouse.
(3) The limit for a head of a household if the household contains the applicant and a person other than the applicant's spouse.

EXAMPLE

The applicant and the applicant's spouse live in the applicant's domicile. A married couple must have income of $84,000 or less during state tax year 2014 to qualify for the "circuit breaker" income tax credit for that year. Therefore, in order for the applicant to qualify for a Clause 41C½ exemption in fiscal year 2016, which begins on July 1, 2015, the combined gross receipts of the married couple during 2014 cannot be over $84,000.

The applicant and the applicant's sister live in the applicant's domicile. A head of a household must have income of $70,000 or less during state tax year 2014 to qualify for the "circuit breaker" income tax credit for that year. Therefore, in order for the applicant to qualify for a Clause 41C½ exemption in fiscal year 2016, which begins on July 1, 2015, the combined gross receipts of the applicant and her sister during calendar 2014 cannot be over $70,000.

2. Adjustments Procedure

a. Adjustments

An adjustment to an eligibility factor or the exemption amount is made by vote of the legislative body subject to local charter, *i.e*., town meeting, town/city council with the approval of the mayor if required by charter. (See attached "Sample Votes for Clause 41C½ Exemption Options.")

b. Effective Date

The vote should explicitly state the fiscal year in which the adjusted eligibility factor or exemption amount will first apply and must take place before the tax rate is set for that year.

c. Revision

The adjusted eligibility factor or exemption amount established in this manner will apply unless a new vote is taken establishing a different factor or amount.

3. Notification of Adjustment

The city or town clerk must notify the Municipal Databank if any adjustments are voted. (See "Notification of Clause 41C½ Exemption Options.") The notification should be made **as soon as possible** after the vote.

G. ACCOUNTING

All exemptions granted are charged to the overlay. Assessors in cities and towns that vote to accept Clause 41C½ or use any of its optional adjustments are advised to review the adequacy of their overlay accounts before setting the tax rate.

H. STATE REIMBURSEMENT

Subject to appropriation, cities and towns that accept Clause 41C½ will be reimbursed at the rate of the actual exemption amount or $500, whichever is less, for each exemption granted, but the number of exemptions reimbursed cannot exceed the number of exemptions granted the last year Clause 41 was used. Therefore, any city or town that accepts Clause 41C½ will be reimbursed for any additional exemptions granted only to the extent that the total number of exemptions granted does not exceed that Clause 41 cap. The city or town will not receive any additional state reimbursement if acceptance of Clause 41C½ or use of any optional adjustments results in exemption amounts over $500, or the number of exemptions granted exceeds the Clause 41 cap.

SAMPLE VOTES FOR CLAUSE 41C½ EXEMPTION OPTIONS BY LEGISLATIVE BODY, SUBJECT TO CHARTER

(These sample votes should not be used without the advice of municipal counsel.)

ELIGIBILITY ADJUSTMENTS

ARTICLE/ORDER. To see if the city/town will vote to adjust (the exemption amount and eligibility factors) for the property tax exemption for senior citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41C½, to be effective for exemptions granted for any fiscal year beginning on or after July 1, _______, or take any other action relative thereto.

MOTION. I move that the city/town vote to adjust the (exemption amount and eligibility factors) for the property tax exemption for senior citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41C½, to be effective for exemptions granted for any fiscal year beginning on or after July 1, _______, as follows:

INSERT OPTIONS BEING CHOSEN, for example:

1. By reducing the age of eligibility to age 65 (from 70).

2. By increasing the exemption percentage to (may be any percentage up to 20) (from 5%).

3. By reducing the number of consecutive years an applicant must have been domiciled in Massachusetts before qualifying for exemption to 5 years (from 10 years).

4. By increasing the gross receipts limit to: (1) in a household containing the applicant and his or her spouse, the combined gross receipts of the couple using the total income limit for a married couple filing a joint return under the state circuit breaker income tax credit, and (2) in a household containing the applicant and a person other than the applicant's spouse, to the combined gross receipts of all household members using the total income limit for a head of a household under the state circuit breaker income tax credit.

FEATURES OF CLAUSE 41C½ SENIOR EXEMPTION

ELIGIBLE AGE	70 as of July 1 (**Same** as Clauses 41, 41B and 41C) **<u>Allowable Adjustment</u>** 65 (**Same** as allowed under Clause 41C)
OWNERSHIP	Own the property on July 1 (**Same** as Clauses 41, 41B and 41C) Owned and occupied the property, or any other MA property, as domicile for any 5 years (**Same** as Clauses 41B and 41C)
DOMICILE	Occupy the property as domicile on July 1 (**Same** as Clauses 41, 41B and 41C) Domiciled in MA for 10 consecutive years before application date (**Same** as Clauses 41B and 41C) **<u>Allowable Adjustment</u>** Domiciled in MA for 5 consecutive years before application date
GROSS RECEIPTS LIMIT	Gross receipts of applicant cannot exceed income limit that applies for a single person who is not the head of a household to qualify for the "circuit breaker" state income tax credit for the prior calendar year (**Different** from Clauses 41, 41B and 41C) No social security deduction from gross receipts (**Different** from Clauses 41, 41B and 41C) **<u>Allowable Adjustment</u>** Adjust income limits to apply to combined household income: (1) in household with applicant and spouse, to limit for married couple, and (2) in household with applicant and person other than spouse, to limit for head of household, under the state circuit breaker income tax credit
WHOLE ESTATE LIMIT	None (**Different** from Clauses 41, 41B and 41C)
EXEMPTION AMOUNT	5% of average assessed residential valuation (**Different** from Clauses 41, 41B and 41C) **<u>Allowable Adjustment</u>** Up to 20% of average assessed residential valuation
OPTIONAL ADDITIONAL EXEMPTION	Applicable (**Same** as Clauses 41, 41B and 41C)
APPLICATION DEADLINE	December 15 or three months after the bills are sent, whichever is later (**Same** as Clauses 41, 41B and 41C)
STATE REIMBURSEMENT	Exemption granted up to $500 per exemption, with number of exemptions reimbursed in any year capped at number of exemptions granted in the last year Clause 41 used (**Same** cap on total number and per exemption amount as Clauses 41, 41B and 41C)

COMPARISON OF FINANCIAL MEANS TESTS FOR SENIOR EXEMPTIONS - CLAUSES 41, 41B, 41C, 41C½

	Clause 41	Local Option Clause 41B	Local Option Clause 41C	Local Option Clause 41C1/2
Gross Receipts Limit ***Deductions:*** (1) Applicant – Minimum Social Security/ Retirement Allowance (set by DOR annually)[1] (2) Applicant & Co-owner not Spouse - Business expenses or losses (*i.e.*, only net profits/rental income included) If applicant/non-spousal co-owner is married, combined income of applicant and spouse/co-owner and spouse cannot exceed married limit[2]	Applicant & Each Co-owner not Spouse $6,000 Single $7,000 Married	Applicant & Each Co-owner not Spouse $10,000 Single $12,000 Married	Applicant & Each Co-owner not Spouse $13,000 Single $15,000 Married **Allowable adjustment** Applicant Only Up to $20,000 Single Up to $30,000 Married	Applicant Income limit under "circuit breaker" state income tax credit for single person who is not head of household (does not include gross receipts of spouse or co-owners) **Allowable adjustment** Applicant & Other Household Members Combined gross receipts of household members cannot exceed limit under "circuit breaker" state income tax credit for (1) married couple if household is couple, and (2) head of household if household is applicant and person other than applicant's spouse
Whole Estate Limit[3] ***Deductions:*** Applicant & Co-owner not Spouse - Registered vehicles, cemetery plots, household furniture/effects at domicile and clothing If applicant/non-spousal co-owner is married, combined assets of applicant and spouse/co-owner and spouse cannot exceed married limit	Option 1 - Applicant Deducts Own Home (Except Any Income Producing Portion) & Each Co-owner not Spouse Includes own Home Applicant: $17,000 Single; $20,000 Married Each Co-owner not Spouse: $12,000 Single; $15,000 Married Option 2 - Applicant & Co-owner not Spouse Each Includes own Home Applicant: $40,000 Single; $45,000 Married Each Co-owner not Spouse: $12,000 Single; $15,000 Married	Applicant & Co-owner not Spouse Each Deducts Own Home (Except Income Producing Portion) Applicant & Each Co-owner not Spouse $20,000 Single $23,000 Married	Applicant & Each Co-owner not Spouse Each Deducts Own Home (Up to 3 Family) Applicant & Each Co-owner not Spouse $28,000 Single $30,000 Married **Allowable adjustment** Applicant Deducts Home (Up to 4 Family) Applicant Only $40,000 Single $55,000 Married	No Limit
Annual Inflation Adjustments (COLA)	**Social security/retirement deduction** automatically increased annually as determined by DOR **Clause 41, 41B and 41C gross receipts and whole estate limits** automatically increased annually by COLA determined by DOR if legislative body has voted to accept G.L. c. 59, § 5(41D) **Clause 41C½ gross receipts limits** automatically increased annually by COLA determined by DOR for "circuit breaker" state income tax credit under G.L. c. 62, § 6(k)(3)			

[1] Does not apply to Clause 41C½.
[2] Does not apply to Clause 41C½.
[3] Does not apply to Clause 41C½.